

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION**

In re:)	Chapter 13 Bankruptcy
)	Case No. 02-46025-JBR
Jacalyn S. Nosek)	
)	
Debtor.)	Adversary No. 07-04109-JBR
)	(Related Adv. Pro. No. 04-04517-JBR)
Jacalyn S. Nosek,)	
)	
Plaintiff,)	
)	
Vs.)	
)	
Ameriquet Mortgage Co.,)	
)	
Defendant.)	
)	
Denise M. Pappalardo and)	
Carolyn A. Bankowski)	
Trustee Defendants)	

OBJECTIONS TO EVIDENCE

Defendant Ameriquet Mortgage Company (“Ameriquet”) hereby respectfully submits its Objections to the purported Evidence submitted by Plaintiff Jacalyn Nosek (“Nosek”) in support of Nosek’s Emergency Motion for Approval of Attachment on Trustee Process:

1. Memorandum In Support of Emergency Motion for Approval of Attachment on Trustee Process

<u>Objectionable Paragraphs and Exhibits</u>	<u>Legal Authority for Objections</u>
Paragraph 7: “Based upon the above, it is evident that the Defendant is actively engaging in transferring assets for zero consideration in an apparent effort to defraud its creditors, of which Ms. Nosek is one.”	<u>Lacks foundation/Lacks Personal Knowledge</u> (Mass.R.Civ.P., Rules 4.1(h) and 4.2(c)(requiring an affidavit based on personal knowledge); FRE 602]; <u>Hearsay</u> (FRE 802); <u>Speculative/Irrelevant</u> (FRE 402); <u>Improper Conclusion/Lay Witness Opinion</u> (FRE 701).
Paragraph 8: “The attachment sought will in no way prejudice the Chapter 13 Debtors who are currently making payments to the Chapter 13 Trustees for the Eastern and Western Division.”	<u>Lacks foundation/Lacks Personal Knowledge</u> (Mass.R.Civ.P., Rules 4.1(h) and 4.2(c) (requiring an affidavit based on personal knowledge); FRE 602]; <u>Speculative/Irrelevant</u> (FRE 402); <u>Improper Conclusion/Lay Witness Opinion</u> (FRE 701).
Paragraph 9: “The payments made to the Trustees are for <i>pre-petition arrears</i> owed by the Debtors to Ameriquest. Debtors will continue to make their post petition payments as required, and the attachments requested will not precipitate the filing of motion seeking relief from the automatic stay.”	<u>Lacks foundation/Lacks Personal Knowledge</u> (Mass.R.Civ.P., Rules 4.1(h) and 4.2(c) (requiring an affidavit based on personal knowledge); FRE 602]; <u>Speculative/Irrelevant</u> (FRE 402); <u>Improper Conclusion/Lay Witness Opinion</u> (FRE 701).

2. Plaintiff’s Affidavit in Support of Motion for Approval of Trustee Process

<u>Objectionable Paragraphs and Exhibits</u>	<u>Legal Authority for Objections</u>
Paragraph 2: “Upon information and belief, there is presently monies or credits due said defendant in the hands and possession of the trustees, Denise M. Pappalardo and Carolyn A. Bankowski.”	<u>Lacks foundation/Lacks Personal Knowledge</u> (Mass.R.Civ.P., Rules 4.1(h) and 4.2(c) (requiring an affidavit based on personal knowledge); <u>Irrelevant</u> (FRE 402).
Paragraph 5: “As of this date, this Court has not yet determined an award of my attorneys fees and costs to which I am entitled to recover under 11 U.S.C. § 105(a), or the amount of pre-judgment interest.”	<u>Irrelevant</u> (FRE 402).

Paragraph 11: "Based upon all of the circumstances described above, I have a meritorious cause of action and there is a reasonable likelihood that judgment will be recovered in the amount of \$1,000,000."	<u>Improper Conclusion/Lay Witness Opinion</u> (FRE 701); <u>Irrelevant</u> (FRE 402).
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Dated: September 27, 2007

Respectfully submitted,

Ameriquet Mortgage Company
By Its Attorneys
BUCHALTER NEMER, PC

By: /s/ Jeffrey K. Garfinkle
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PROOF OF SERVICE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is at BUCHALTER NEMER, A Professional Corporation, 18400 Von Karman Avenue, Suite 800, Irvine, California 92612-0514.

On the date set forth below, I served the foregoing document described as:

OBJECTIONS TO EVIDENCE

on all other parties and/or their attorney(s) of record to this action by faxing and/or placing a true copy thereof in a sealed envelope as follows:

Philip M. Stone
44 Front Street
Worcester, Ma 01608

☒ **BY EMAIL.** On September 27, 2007, I caused the above-referenced document(s) to be sent in electronic PDF format as an attachment to an email addressed to the person(s) on whom such document(s) is/are to be served at the email address(es) shown above, as last given by that person(s) or as obtained from an internet website(s) relating to such person(s), and I did not receive an email response upon sending such email indicating that such email was not delivered.

☒ I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. Executed on September 27, 2007, at Irvine, California.

Debby Bodkin

/s/ Debby Bodkin

(Signature)